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April 26, 2005

DATE

RODNEY F. BROWN

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/600,897 -  
Applicant : Scott W. Ziegler  
Filed : June 20, 2003  
Title : Tandem Seat for a Motorcycle Having Concealable Backrest Assembly  
  
Art Unit : 3636  
Examiner : Stephen A. Vu  
Docket No. : 020P0101

**MAIL STOP AF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION AFTER FINAL ACTION**

Sir:

A final Office Action in the above-captioned patent application has been mailed on March 23, 2005, which *inter alia* rejects claims 15 and 25. In response to the final Office Action, the examiner granted applicant's attorney a telephonic interview on April 4, 2005, to specifically discuss the rejection of claims 15 and 25. Applicant wishes to thank the examiner for his courtesy in granting the telephonic interview. The present response provides the examiner with a written summary of the issues discussed in the interview so that the examiner can more fully analyze applicant's request for reconsideration of rejected claims 15 and 25 (and correspondingly rejected dependent claims 16-18 and 27).

**Distinctions Between Claim 15 and U.S. Patent 3,873,127 (McNichol, Jr. et al.)**

Claim 15 has been rejected under 35 U.S.C. §102(b) as being anticipated by McNichol, Jr. et al. Claim 15 recites a driver seat segment (12) (highlighted in yellow in the appendices), a passenger seat segment (14) (highlighted in pink), and a backrest assembly (16) including a support arm (46) (highlighted in green) and a back bar (50) (highlighted in blue). The reference numbers provided in parenthesis above designate specific structural components of the embodiment shown in Figures 1 and 2 of the instant

application. The backrest assembly (16) has a first selective operational position characterized by an essentially vertical orientation as shown in Figure 1 and a second selective operational position characterized by an essentially horizontal orientation as shown in Figure 2. **Claim 15 requires positioning the back bar (50) adjacent both the seating surface (20) of the driver seat segment (12) and the seating surface (36) of the passenger seat segment (14) (i.e., between the driver seat segment (12) and passenger seat segment (14)) when the backrest assembly (16) is in the horizontal position.** Figures 1 and 2 are attached hereto as Appendices A and B, which illustrate the above-recited limitations of claim 15.

McNichol, Jr. et al. discloses structural components analogous to those of applicant's claim 15 recited above, namely, a driver seat segment (22), passenger seat segment (42), and backrest assembly (44) including a support arm (76) and a back bar (94) likewise highlighted in the appendices by the same color code as above. The reference numbers provided in parenthesis above designate specific structural components of the embodiment of McNichol, Jr. et al. shown in Figures 1 and 2. Like applicant's claim 15, the backrest assembly (44) of McNichol, Jr. et al. has a first (vertical) position shown in Figure 2 and a second (horizontal) position shown in Figure 1.

**However, McNichol, Jr. et al. does not disclose positioning the back bar (94) adjacent both the seating surface of the driver seat segment (22) and the seating surface of the passenger seat segment (42) (i.e., between the driver seat segment (22) and the passenger seat segment (42)) as required by applicant's claim 15 when the backrest assembly (44) is in the horizontal position. Instead, McNichol, Jr. et al. positions the back bar (94) on the opposite side of the passenger seat segment (42) from the driver seat segment (22) when the backrest assembly (44) is in the horizontal position.** Figures 1 and 2 of McNichol, Jr. et al. are attached hereto as Appendices C and D, respectively, which illustrate the above-recited embodiment of McNichol, Jr. et al. as distinguished from applicant's claim 15.

**Distinctions Between Claim 25 and U.S. Patent 3,873,127 (McNichol, Jr. et al.)**

Claim 25 has been rejected under 35 U.S.C. §102(b) as being anticipated by McNichol, Jr. et al. Claim 25 recites a seat (14) (highlighted in pink) and a backrest assembly (16) having first (vertical) and second (horizontal) positions. The backrest assembly (16) includes a back bar (50) (highlighted in blue) and a support arm (46) (highlighted in green). The support arm (46) has a pivot end (52) and a free end (54); the free end (54) engages the back bar (50) and the pivot end (52) extends away from the back bar (50) and rotatably engages the seat (14). Note that the seat of claim 25 must be the passenger seat segment (14) because the pivot end (52) does not engage the driver seat segment (12) as required by claim 25.

**Claim 25 requires the backrest assembly (16) to be transitionable from the vertical to the horizontal position by rotating the support arm (46) about the pivot end (52) in a first direction (68) until the back bar (50) attains a position adjacent the front side (38) and distal the rear side (44) of the seat (14). The backrest assembly (16) is transitionable from the horizontal to the vertical position by rotating the support arm (46) about the pivot end (52) in a second direction (66) until the back bar (50) attains a position overhead the seat (14) more distal the front side (38) and more proximal the rear side (44) of the seat (14) than the adjacent position.** Figures 1 and 2 are attached hereto as Appendices E and F, which illustrate the above-recited limitations of claim 25.

McNichol, Jr. et al. discloses a seat (42) and a backrest assembly (44) which includes a back bar (94) and a support arm (76). The support arm (76) has a pivot end (80) rotatably engaging a seat (42) and a free end (100) engaging the back bar (94) which are likewise highlighted by the same color code as above. Note that the seat of McNichol, Jr. et al., which is analogous to the seat of claim 25, must be the passenger seat (42) because the pivot end (80) does not engage the driver seat (22) as required by claim 25. Like applicant's claim 25, the backrest assembly (44) of McNichol, Jr. et al. is transitionable from the horizontal to the vertical position by rotating the support arm (76) about the pivot

end (80) in a second direction until the back bar (94) attains a position overhead the seat (42) which is more distal the front side and more proximal the rear side of the seat (42) than the adjacent position. **However, the back bar (94) of McNichol, Jr. et al. does not attain a position adjacent the front side and distal the rear side of the seat (42) when the backrest assembly (44) is transitioned from the vertical to the horizontal position by rotating the support arm (76) about the pivot end (80) in a second direction as required by applicant's claim 25. Instead, the back bar (94) of McNichol, Jr. et al. is positioned adjacent the rear side of the seat (42) when the backrest assembly (44) is in the horizontal position and remains positioned adjacent the rear side of the seat (42) when the backrest assembly (44) is transitioned from the horizontal position to the vertical position.** Figures 1 and 2 of McNichol, Jr. et al. are attached hereto as Appendices G and H, respectively, which illustrate the above-recited embodiment of McNichol, Jr. et al. as distinguished from applicant's claim 25.

The terms "front side" and "rear side" are admittedly relative terms, which are not fixed. However, **even if the front and rear sides of the seat (42) are reversed from those shown in Appendices G and H, claim 25 does not read on the above-recited embodiment of McNichol, Jr. et al. If the front and rear sides of the seat (42) are reversed, the back bar (94) of McNichol, Jr. et al. is positioned adjacent the front side of the seat (42) when the backrest assembly (44) is in the horizontal position and remains positioned proximal the front side of the seat (42) (rather than distal the front side as required by claim 25) when the backrest assembly (44) is transitioned from the horizontal position to the vertical position.**

It is additionally noted that applicant's claim 25 requires at least a portion of the length of the support arm (46) to be positioned adjacent the first lateral side (40) of the seat (14) when the backrest assembly (16) is transitioned from the vertical to the horizontal position, while requiring this portion of the length of the support arm (46) to be overhead the seat (14) more distal the lateral side (40) when the backrest assembly (16) is transitioned from the horizontal to the vertical position. In contrast, the entirety of the

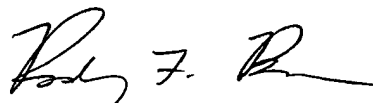
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analogous length of the support arm (76) of McNichol, Jr. et al. is positioned adjacent the back bar (94) in both the vertical and horizontal positions, with no portion of this length of the support arm (76) being positioned adjacent a lateral side of the seat (42) in either the vertical or horizontal position. Note that the length of the support arm of McNichol, Jr. et al., which is analogous to the length of the support arm of claim 25, must be the rotatable segment of the support arm (76) engaging the back bar (94) because the remaining segment of the support arm (76) engaging the seat (42) does not rotate between two different positions as required by claim 25.

### **Conclusion**

In conclusion, applicant respectfully asserts that all pending claims 1-8, 10-13, 15-20, and 25-27 in the instant patent application are allowable for the reasons set forth above. Accordingly, an early notice of allowance is earnestly solicited. The Examiner is requested to call the undersigned at (858) 272-8705 for any reason that would advance the instant application to issue.

Respectfully submitted,



Rodney F. Brown  
Attorney for Applicant  
Registration No. 30,450

3365 Baltimore Street  
San Diego, California 92117  
Telephone: (858) 272-8705

RFB:020P0101C

attachments:

Appendices A and B illustrating the limitations of claim 15  
Appendices C and D illustrating McNichol, Jr. et al. as distinguished from claim 15  
Appendices E and F illustrating the limitations of claim 25  
Appendices G and H illustrating McNichol, Jr. et al. as distinguished from claim 25